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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,497	07/18/2000	Yu Zheng	PAT-1238-DIV	9055

7590

11/13/2002

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 11/13/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/618,497

Applicant(s)

ZHENG, YU

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 71 and 72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 71 and 72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is an office action for a request for continued examination (RCE), filed September 9, 2002, of earlier application.

The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior office action.

Claims 1-4 and 71-72 are pending in the application.

Terminal Disclaimer

1. The terminal disclaimer filed on September 9, 2002 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US patent No. 6,098,349 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

2. Claims 1-4 and 71-72 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese '407 in view of Zheng '915.

McLeese '407 (see attachment attached with prior art office action) teaches a collapsible structure comprising a single first base panel (A) having a foldable frame members (C) partially covered by a fabric material (D) through a sleeve, a single second upper panel (E) having a foldable frame members (F) partially covered by a fabric material (G) through a sleeve, wherein the second upper panel having two opposite end edges being coupled to the opposite side of the outer periphery of the first base panel by interconnecting pieces (H) such that the first base and

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second upper panels define an interior space therebetween, and the second panel (E) has a front edge between two opposite end edges defining an opening for ingress and egress to the interior space. Although McLeese does not define the opposite edges of the second upper panel each being extending beyond and coupled to the outer periphery of the first base panel by an extension. Zheng teaches a collapsible structure comprising a single first base panel (72a) having an outer periphery, a second upper panel which is formed by a plurality of sections (72b-72e) having opposite end edges (80a, 82a), wherein the opposite end edges (80a, 82a) of the second upper panel are coupled to the opposite sides (74a, 74c) of the outer periphery of the first base panel by interconnecting fabric pieces (i.e., 37, 37a, 37b) such that the opposite end edges of the upper panel being connected to and extending beyond the outer periphery of the base panel to define two extensions between the base and the upper panels and to define an enlarged interior space therebetween. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collapsible structure of McLeese having the opposite edges of the upper panel being coupled to the opposite edges of the lower panel by interconnecting fabric pieces as taught by Zheng, as old and well known connecting concept, for allowing the edges of the upper panel being mounted and extending beyond the outer periphery of the base panel to provide a larger interior space area as desired.

Response to Amendment

3. Applicant's arguments with respect to claims 1-4 and 71-72 filed September 9, 2002 have been considered but they are not deemed to be persuasive.

In response to applicant's argument of that Zheng does not teach or suggest the collapsible structure having the upper panel having a single frame member as suggested by the applicant's invention, but the upper panel is not formed from the combined four separated panels as Zheng's structure, we agree that this is so, otherwise our rejection would have been entered under section U.S.C. 102 of the statute base on Zheng's reference. Applicant argues the patentability of claims 1-4 and 71-72 by individually addressing the references used to reject the claims. Applicant cannot show nonobviousness by attacking the references individually where, as here, the rejection is base on a combination of references. See In re Keller, 208 USPQ 871 (CCPA 1981). The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Zheng '915 is used as a teaching reference only to teach two opposite end edges of an upper panel can be coupled to and extending beyond an outer periphery of a lower panel as claimed which solves the same problem as defined by applicant. Whether or not the upper panel is made of a single piece or integrally connected by several pieces is not held the claimed invention overcome the prior art of record. The fact that it discloses additional structure not claimed is irrelevant.

Therefore, the discussions supra and in the previous action again apply.

ACTION IS FINAL

4. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600


wsy

November 4, 2002